

June 11, 2012

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re:** Written Ex Parte Presentation, ET Docket No. 10-236, ET Docket No. 06-105

Dear Ms. Dortch:

Sprint Nextel Corporation ("Sprint") files this *ex parte* to support the recommendations made by Clearwire Corporation ("Clearwire") in its Notice of Ex Parte Presentation submitted May 17, 2012 in the above-captioned proceeding.<sup>1</sup> Sprint, a primary licensee in the 800 MHz, 900 MHz, 1.9 GHz and 2.3 GHz bands, shares the concerns expressed by Clearwire regarding certain aspects of the Federal Communications Commission's Experimental Radio Service ("ERS") licensing process.<sup>2</sup>

Clearwire recommends that the Commission take four steps in this proceeding to protect networks and customers using primary licensed spectrum from potential interference from ERS secondary services. Clearwire recommends that the Commission require that: (1) an applicant for a ERS authorization demonstrate that the proposed experimental use has been successfully coordinated with any potentially affected primary licensees; (2) an ERS applicant provide emergency contact information for a person designated to handle interference complaints; (3) ERS authorizations be granted only for one of the permitted purposes under the ERS rules; and (4) ERS licensees comply with the Commission's discontinuance rules.<sup>3</sup>

The procedural reforms Clearwire has recommended will provide enhanced protection from harmful interference for primary licensees' networks and the many thousands of consumers

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<sup>1</sup> *Promoting Expanded Opportunities for Radio Experimentation and Market Trials under Part 5 of the Commission's Rules and Streamlining Other Related Rules*, ET Docket No. 10-236, 2006 Biennial Review of Telecommunications Regulations – Part 2, Administered by the Office of Engineering and Technology (OET), ET Docket No. 06-105, Notice of Proposed Rulemaking, FCC 10-197 (rel. November 30, 2010) (*Notice*).

<sup>2</sup> Sprint is a member of CTIA-The Wireless Association and the Wireless Communications Association International and supports the filings of these organizations in this proceeding.

<sup>3</sup> Clearwire Notice of Ex Parte Presentation at 2.

that rely on them without diminishing the Commission's ability to accelerate innovations that push the boundaries of the broadband ecosystem through ERS authorizations.<sup>4</sup>

Sprint has taken advantage of the opportunities that the Commission's ERS provides to experiment with, and ultimately adopt, new technologies and equipment as it expands its Commercial Mobile Radio Service networks and provides new services to its now 56 million customers.<sup>5</sup> Sprint has successfully coordinated with many ERS applicants and licensees to avoid the potential for harmful interference to Sprint's networks and customers, while accommodating the proposed experimental operations in its primary licensed bands. Furthermore, Sprint has extensive experience in locating, analyzing and resolving harmful interference.<sup>6</sup>

As an ERS licensee and the primary licensee of nationwide networks operating in multiple bands, Sprint supports Clearwire's recommendation that the Commission revise its ERS rules to require ERS applicants to demonstrate they have successfully coordinated the proposed experimental program with affected primary spectrum licensees. This reform would provide greater assurance of the availability of the desired spectrum at the planned test locations and avoid potential disruptions and program delays for ERS licensees. Primary licensees would also avoid significant time and resources spent locating and resolving harmful interference due to uncoordinated ERS programs. In addition, customers of primary licensees would avoid service degradations. Similarly, Clearwire's recommendation of a thirty-day "shot clock" would alleviate concerns that pre-filing coordination would adversely affect the objectives of the Commission's ERS initiatives.

Sprint also has experienced concerns similar to Clearwire's well documented instances of abuse of experimental licenses and STAs.<sup>7</sup> Sprint, therefore, agrees that the FCC should grant ERS authorizations only for the purposes specified in Part 5 of the Commission's rules and not allow commercial entities to obtain them as an end-run around the Commission's spectrum leasing rules.<sup>8</sup> For example, using experimental authorizations and STAs for temporary coverage of sporting events does not meet any of the stated purposes of the Commission's Part 5 rules and should not be granted without a proposed program of research or experimentation. To the extent a prospective operator requires access to licensed spectrum to support a sporting event or other non-experimental use, the Commission's short-term leasing rules provide a readily

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<sup>4</sup> Notice at ¶ 1.

<sup>5</sup> Recently, for example, the FCC authorized Sprint an ERS license under call sign WG2XCB, file number 0645-EX-PL-2011, for testing new equipment options within the WCS band. Prior to filing with the FCC, Sprint coordinated with and obtained written consent from Nextwave, the WCS "A" block licensee for the subject market area.

<sup>6</sup> See *Improving Public Safety Communications in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969, ¶ 13 (2004) (FCC 04-168), as amended by Erratum, WT Docket No. 02-55 (rel. Sep. 10, 2004); Second Erratum, 19 FCC Rcd 19651 (2004); Public Notice, 19 FCC Rcd 21492 (2004); and Third Erratum, 19 FCC Rcd 21818 (2004) (subsequent history omitted).

<sup>7</sup> Clearwire *ex parte* at 6-8.

<sup>8</sup> 47 C.F.R. §§ 5.3, 5.61.

available mechanism for commercial entities to acquire spectrum. Short-term leasing also ensures coordination with the primary licensee and helps both parties avoid potential harmful interference.

Clearwire further notes that ERS licensees often ignore obligations to cancel authorizations when they permanently discontinue operations.<sup>9</sup> Sprint agrees. The primary licensees as well as potential ERS applicants would benefit from more accurate information in the Commission's database of what spectrum currently is being used by which entities in specific locations.

Accordingly, Sprint supports Clearwire's recommendations to improve the ERS process by requiring the applicants to: (1) pre-file coordination with primary licensees; (2) provide emergency contact information on the application; and (3) comply with the Commission's ERS eligibility rules; and (4) comply with the Commission's ERS discontinuance rules. The Commission should enforce each obligation on penalty of application dismissal, monetary forfeiture or other sanction.<sup>10</sup> Should any questions arise concerning this filing, kindly contact the undersigned.

Sincerely,

/s/

Robin J. Cohen  
Senior Manager – Regulatory Affairs

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<sup>9</sup> Clearwire *ex parte* at 8.

<sup>10</sup> See, e.g., 47 C.F.R. § 5.67(b) (“Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal.”).